

SENATE BILL REPORT

ESSB 6532

As Passed Senate, February 15, 2008

Title: An act relating to the management of state-owned aquatic lands by cities for the purposes of operating a publicly owned marina.

Brief Description: Authorizing certain cities to enter into lease agreements to use state-owned aquatic lands to operate a publicly owned marina.

Sponsors: Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Haugen and Keiser).

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 1/31/08, 2/06/08 [DPS].
Passed Senate: 2/15/08, 49-0.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: That Substitute Senate Bill No. 6532 be substituted therefor, and the substitute bill do pass.

Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Morton, Ranking Minority Member; Hargrove, Rockefeller, Stevens and Swecker.

Staff: Curt Gavigan (786-7437)

Background: The Legislature has assigned to the Department of Natural Resources (DNR) the responsibility for managing the state's aquatic lands for the benefit of the public. DNR manages over two million acres of tidelands, shorelands, and bedlands. This includes the beds of navigable rivers and lakes, along with the beds below the Puget Sound.

The management of aquatic lands must support a balance of goals, including the encouragement of public access, the fostering of water-dependent uses, the utilization of renewable resources, environmental protection, and the generation of revenue. Revenues generated from the state's aquatic lands are generally directed to be used for public benefits, such as shoreline access, environmental protection, and recreational opportunities.

DNR has general leasing authority for aquatic lands. The Legislature has directed DNR, however, to favor water dependent uses. State-owned aquatic land lease rates for water-dependent uses are determined using a statutory formula, based largely on the value of an associated upland parcel. The term "water-dependent use" refers to a use that cannot logically exist in any location but on water. DNR must lease parcels used for non-water dependent uses at fair market value.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Port districts and DNR may enter into agreements authorizing port districts to manage certain state owned aquatic lands for port purposes. Ports must manage such lands consistent with the aquatic lands management statutes that apply to DNR. Ports need not pay rent for lands managed under a port management agreement that are used for water-dependent or oriented uses. If a port leases such lands for a non-water dependent use, 85 percent of that revenue must go to the state.

Summary of Engrossed Substitute Bill: A city with a current population between 20,000 and 25,000 and that currently operates a publicly owned marina may enter into a lease, not to exceed 20 years, with DNR authorizing the city to use state-owned aquatic lands for the purpose of operating a publicly owned marina. The Office of Financial Management's population estimate serves as the basis to determine a city's population.

State-owned aquatic lands included in the lease are those included in a city's most recent marina lease from DNR, along with aquatic lands immediately adjacent to those lands.

No rent is due for the use of state-owned aquatic lands for the first ten years under the lease. During subsequent years, rent is only due for those lands included in a previous aquatic land marina lease.

A city choosing to enter into such a lease has one year from the bill's effective date to do so. A city must have paid any amounts owed DNR before entering into such a lease. The lease may not be renewed or extended.

During the first ten years of the lease, a city may not apply for grants from the aquatic lands enhancement account.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The issue of city managed marinas struggling has been around for years. Although ports need not pay rent for water-dependent uses, cities managing marinas and providing public access opportunities must do so. The city of Oak Harbor is making efforts to improve its facilities, but cannot do so while still paying rent. Additionally, Island County needs the marina services provided by the city marina. The marina brings in tourist dollars to the area, and current rents prohibit repairs and improvements that are necessary.

CON: DNR is very concerned about the shift in policy provided for in this bill. The bill would fragment aquatic lands management among additional managers, impact revenue that funds aquatic lands projects, create disparities between public and private marina owners, and could impact the ongoing habitat conservation planning process. The Department requests that the Legislature wait for a pending Joint Legislative Audit and Review Committee study before moving forward

Persons Testifying: PRO: Senator Haugen, prime sponsor; Jim Slowik, Mayor of Oak Harbor.

CON: Fran McNair, DNR.